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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,145	06/20/2001	Carl R. Peterson	FM-199J	3105

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IANDIORIO & TESKA  
INTELLECTUAL PROPERTY LAW ATTORNEYS  
260 BEAR HILL ROAD  
WALTHAM, MA 02451-1018

EXAMINER

EVANS, ROBIN OCTAVIA

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/885,145

### Applicant(s)

PETERSON ET AL.

### Examiner

Robin O. Evans

### Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-9 and 1125 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1,4,6-9,12-15,17-20 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 5,16 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 18, 2004 has been entered.

### ***Allowable Subject Matter***

2. The filing of the RCE resulted in another review of the claims. This review has lead to newly found prior art and reconsideration of the indicated allowable subject matter recited in now cancelled claim 3 and claim 7. Therefore the allowability of claim 7 is withdrawn in view of the newly discovered reference(s) to Curry et al. and a review of Laughlin. The examiner apologizes for any inconvenience this may have caused. The new rejections follow.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8, 9, 17, 18, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The dependent claims recites a limitation further defining the medium, however the medium has not been positively recited in the independent claims thus rendering the claims vague and indefinite since the metes and bounds of the claims can not be determined. However

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for examination purposes the dependents claims have been considered as combination claims, which include the system and the medium. Clarification is needed.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4, 6, 9(as best understood), 12-15, 18(as best understood), 19, 20, 22 and 25(as best understood) are rejected under 35 U.S.C. 102(e) as being anticipated by Laughlin (6,199,557).

Laughlin shows a coating system having a source of liquid 60, and aerosol device 36, source of pressurized fluid 62, pressurizing device 64 and a device 46 upstream for fanning the fog.

As to the limitation of "an electrostatic charging circuit", Laughlin discloses in column 8, lines 12-38, that electrostatic charging of the particles can be used in atomization the liquid.

As to the limitation that the liquid is a decontamination reagent, Laughlin discloses that a decontamination agent could be used as the liquid being applied to the body see column 2, lines 41+ and column 5, lines 1-30.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 8, 17, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laughlin.

Laughlin shows all of the claimed limitations but does not disclose that the agent is a powder, or that the medium is a contaminating agent. It is deemed that even though the decontaminating agent is used to cover a contaminated body that it will inherently be directed towards the contaminating agent that is located on the body, however if deemed not then it would have been obvious to one of ordinary skill in the art to have used the system to decontaminate a contaminating agent so as to purify the area that is contaminated. It is deemed that whether the decontaminating agent is powder or liquid will be determined by the user having a desired result in mind.

9. Claims 1, 4, 6-9, 12-15, 17-20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curry et al. in view of Malkin et al. (6,391,259) or Laughlin (6,199,557).

Curry et al. shows a decontaminating system having a source of decontaminating agent 702, aerosol device 706, pressurizing device 710 and electrostatic charging circuit 712. Curry et al. also teaches, in column 12, lines 8-11, that an airflow from a fan may be used to control and direct the airflow in the treatment space but does disclose that the fan is upstream of the aerosol device. Malkin et al. teaches another decontaminating system having a blower upstream of the spray nozzles. Laughlin as described above also teaches a blower upstream of the spray device. It would have been obvious to one of ordinary skill in the art to have placed the fan described in Curry's device upstream of the spray device so as to be able to direct the decontaminating agent

in the flow of air so as to be able to direct the flow of agent as suggested by Malkin et al. in column 11, lines 32+ and Laughlin in column 12, lines 10+.

As to claim 7 and the limitation that the agent is a powder, see Curry et al., column 11, lines 50-57.

***Allowable Subject Matter***

10. Claims 5, 16 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 11 is allowed over the prior art of record.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin O. Evans whose telephone number is (703) 305-5766. The examiner can normally be reached on Monday-Thursday, 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robin O. Evans  
Primary Examiner  
Art Unit 3752

6/27/04

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